

REMARKS

Claims 124-129 are pending. Applicants amend claims 124-127 for clarity, as suggested by the Examiner, in order to obviate the rejections and to expedite the prosecution. Claims 128-129 are new and added as suggested by the Examiner. New claims are supported by the specification (see for example, page 19, line 7 to page 21, line 5). Therefore, no new matter has been added. Allowance of the claims therefore are solicited.

Enablement Rejections:

On pages 2-3 of the office action, the Examiner rejected claims 124-126 under 35 USC § 112, first paragraph. The Examiner states that the specification is enabling for a process comprising heating to a temperature greater than melting temperature (typically that is above 137°C), for example at about 145°C to about 230°C, and subsequently irradiating at a dose of greater than about 1.0 Mrad to greater than about 20 Mrads, but then rejected the claims by contending that the specification is not enabling for the claimed ranges of temperature and radiation doses, although the specification broadly encompass the claimed ranges. Applicants respectfully disagree with the examiner and submit that:

"With respect to changing numerical range limitations, the analysis must take into account which ranges one skilled in the art would consider inherently supported by the discussion in the original disclosure." See *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976).

Also see *Purdue Pharma L.P. v. Faulding Inc.*, 230 F.3d 1320, 1328, 56 USPQ2d 1481, 1487 (Fed. Cir. 2000) ("[T]he specification does not clearly disclose to the skilled artisan that the inventors... considered the... ratio to be part of their invention.... because the disclosure revealed a broad invention from which the [later-filed] claims carved out a patentable portion"). See MPEP 2163.05 (III) at 2100-182, Rev. 2, May 2004.

Regarding the temperature ranges, applicants refer to the specification at page 20, lines 17-23 and page 30, lines 5-10, which discloses temperatures of below 145°C to about 300°C.

Regarding the radiation dose ranges, applicants refer to the specification that provides radiation doses from about 0.5 Mrads to about 30 Mrads, about 0.5 Mrads to about 100 Mrads, about 0.5 Mrads to about 1000 Mrads, and about 0.5 Mrads to about 1000 Mrads, which includes "from 0.5 to 10 Mrads", see for example, on page 19, lines 9-13, and page 30, lines 17-21.

However, in order to expedite the prosecution, applicants amend the claims 124-126 without acquiescence to recite a temperature range of about 137°C to about 230°C an irradiation dose range from about 1.0 Mrad to about 20 Mrads.

Applicants therefore request withdrawal of the rejections.

Anticipation Rejections:

On page 3 of the Office Action, the Examiner rejected claims 124-127 under 35 U.S.C. § 102(e) and alleged as being anticipated by Saum *et al.* (the '158 patent) as the claims are allegedly rejected by the Examiner on enablement grounds. Applicants have amended the claims in the manner suggested by the Examiner. Applicants are entitled to their February 13, 1996 and October 2, 1996 filing dates. Thus, applicants submit that the '158 patent is not a prior art under 102(e). Therefore, applicants request withdrawal of the prior art rejections.

Double Patenting Rejections:

On pages 4-5 of the office action, the Examiner has provisionally rejected the claims 124-127 under the judicially created doctrine of obviousness-type double patenting and alleged as being unpatentable over claims 124-129 and 131-134, and claims 124-125, 130 and 143-146 of copending application serial nos. 10/197,209 and 09/764,445, respectively.

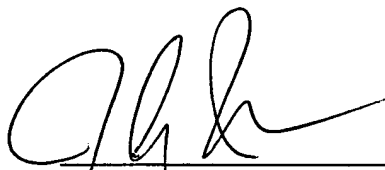
Because applicants have not received any notice of allowance for the '209 or '445 applications, the merits of this provisional rejection need not be discussed at this time. See MPEP § 822.01 (August 2001). Applicants further submit that upon acceptance of the claims by the Examiner, the provisional obviousness-type double patenting rejection should be withdrawn.

REQUEST

Applicants submit that the claims 124-129 are in condition for allowance, and respectfully request favorable consideration to that effect so that an interference can be declared. The Examiner is invited to contact the undersigned at (202) 912-2000 should there be any questions.

Respectfully submitted,

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Date



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